

IN RE: Proposed Regulation of Non-Emergency Vehicles) ORDER ✓
) PROMULGATING NON-
) EMERGENCY VEHICLE
) REGULATIONS

The public hearing in this matter was conducted in a manner consistent with S.C. Code Ann Section 1-23-111 (Supp. 1998). The Commission Staff submitted into the record the jurisdictional documents, including the statement of need and reasonableness as determined by the agency, based on an analysis of specific factors found in portions of S.C. Code Ann. Section

1-23-115 (C)(Supp. 1998). Further, full questioning of the agency's witness, Mr. Parker, was allowed, as well as cross-examination of the other witnesses in the case.

Parker noted that non-emergency vehicles are vehicles used for providing, for a fee or charge, non-emergency transportation for patients in stable medical condition who may or may not require the use of a walker, crutches, canes, or personal assistant, to scheduled visits to a physician's office or hospital for treatment, routine physical examinations, x-rays or laboratory tests; for transporting patients upon discharge from a hospital or nursing home to a hospital or nursing home or residence, or for other non-emergency purposes. Non-emergency vehicles are not equipped with the medical equipment or personnel required for the specialized care provided in an ambulance.

Staff witness Parker presented Staff recommendations for modification of Commission Regulations 103-102, 103-112, and 103-133(6) by adding and defining the terms non-emergency vehicle, wheelchair van, wheelchair van patient, and Federal Motor Carrier CSA Safety Regulations; classifying non-emergency vehicles as Class "C" motor carriers; and outlining the requirements applicants for a Certificate of Public Convenience and Necessity for a non-emergency vehicle must meet before operating in the State of South Carolina, such as driver qualifications, vehicle requirements, vehicle maintenance requirements, drug testing requirements, minimum periodic inspection standards, and minimum insurance limits.

Parker noted that the enactment of the new regulations will require carriers to comply with the Federal Motor Carrier Inspection, Repair, and Maintenance CSA Safety Regulations, and set additional standards which must be maintained for non-emergency vehicles, therefore, positively impacting both the environment and public health. Parker noted that a detrimental

effect on the environment and public health will occur if these regulations are not enacted, because the operation of non-emergency regulations will not be monitored by a state agency and, furthermore, the safety of passengers of these vehicles in addition to the public health will be at risk unless these regulations are implemented.

Matthew Torrey and Frank Manganella of Mobile Med, a non-emergency vehicle company testified in support of the regulations. The witnesses testified that, at present in the State of South Carolina, any person with a vehicle can obtain the proper business licenses and standard vehicle insurance and hold themselves out as public non-emergency medical transportation providers. There are no safeguards to insure that the vehicles being used are mechanically sound and properly equipped and there are no driver/attendant standards to ensure passenger safety. Promulgation of these regulations by the Commission, and, subsequently, approval by the General Assembly will ensure that such safeguards exist to protect the citizens of South Carolina.

Torrey and Manganella also noted that health care facilities and insurance companies at present prefer to pay for ambulances to transport even non-emergency patients to routine appointments, since ambulances must meet certain Federal and State standards for equipment and drivers. Such a means of transportation, according to Torrey and Manganella, is much more costly than use of non-emergency vehicles, but, for now, there are no minimum standards applicable to non-emergency vehicles and their drivers. According to Torrey and Manganella, insurance companies and health care facilities have evidenced an intent to use more cost-saving non-emergency vehicles for transportation of their patients, if it could be assured that, through State standards and certifications, such services met minimum standards. Torrey and Manganella

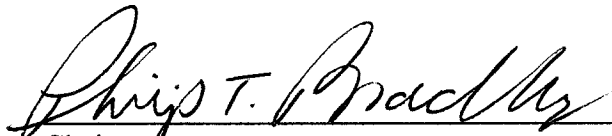
testified that, in their opinion, the proposed Commission regulations constitute and provide the necessary standards and certifications.

It is duly noted that, even after proper notice, no one appeared to speak in opposition to the non-emergency vehicle regulations.

Accordingly, after due consideration, we hereby promulgate and adopt the non-emergency vehicle regulations as shown on Exhibit 1 attached hereto. We agree with Parker, Torrey, and Manganella that these regulations provide the necessary standards and certifications, and, indeed, “fill in a regulatory gap” with respect to State regulation of non-emergency vehicles. We believe that these regulations address concerns and standards for both non-emergency vehicles and their operators in such a way as to protect the citizens of this State from harm at the hands of unscrupulous operators. We therefore order the Commission Staff to submit these regulations for review by the General Assembly, so that this Commission may begin its protection of the public in the non-emergency vehicle arena after approval of said regulations.

This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)

SUBARTICLE 11**NON-EMERGENCY VEHICLES****103-102 Definition of Terms**

23. Non-Emergency Vehicle. "Non-Emergency vehicle" means a vehicle that is used for providing, for a fee or charge, non-emergency transportation, for patients in stable medical condition who may or may not require the use of a walker, crutches, canes, or personal assistant, to scheduled visits to a physician's office or hospital for treatment, routine physical examinations, x-rays or laboratory tests, for transporting patients upon discharge from a hospital or nursing home to a hospital or nursing home or residence, or for other non-emergency purposes. Non-Emergency Vehicles are not equipped with the medical equipment or personnel required for the specialized care provided in an ambulance. "Non-Emergency Vehicle" includes "Wheelchair Van." "Non-Emergency Vehicle" shall not include vehicles owned by facilities that provide such transportation as described above without charging a separate fee for the transportation service.

24. Wheelchair Van. "Wheelchair Van" means a Non-Emergency Vehicle which is modified, equipped and used for the purpose of providing non-emergency medical transportation for Wheelchair Van Patients. These vehicles are specifically designed and modified to load and transport both ambulatory and wheelchair-bound patients in a safe and secure manner.

25. Wheelchair Van Patient. "Wheelchair Van Patient" means a patient whose medical condition is such that the person may be transported safely and securely in a Wheelchair Van. These patients must be transported in a sitting position in a secured wheelchair and/or require a ramp or lift to board the vehicle.

26. Any and all definitions addressed in the Federal Motor Carrier CSA Safety Regulations (Code of Federal Regulations Title 49, Parts 40 and 355-397) (hereinafter known as the CSA Safety Regulations) apply to all Non-Emergency Vehicle regulations.

103-112. Class "C" Motor Carrier – Certificate of Public Convenience and Necessity

A Class C motor carrier is a common carrier by motor vehicle of passengers, generally known as "taxi cabs," "charter buses," "charter limousine," and "non-emergency vehicles," which does not operate over regular routes or upon regular schedules, and which does not, in any way, solicit or receive patronage outside of the radius of two miles of the corporate limits of the city in which it is licensed to do business, except upon such highways as are not served by a Class A or B motor carrier. A Class C motor carrier must obtain a Certificate of PC&N from the Commission, except "charter buses," which must obtain a Charter Bus Certificate.

103-133(6). PC&N (Non-Emergency Vehicles)

In addition to meeting the requirements set out in 103-133(4) above, applicants for a Certificate of PC&N for non-emergency vehicles must meet the following requirements:

A. Driver Qualifications/Requirements

1. Carrier must comply with Part 391-Qualifications of Drivers, CSA Safety Regulations, excluding 391.49, in addition to the following requirements:

- a. Driver must possess at least a current American Red Cross Standard First Aid and CPR Certificate or its equivalent. Records of such must be kept on file at company's primary place of business within South Carolina
- b. Driver must be in compliance with all OSHA regulations
- c. Driver must be adequately trained in the use of all vehicle installed safety equipment such as two-way radios, first aid kits, fire extinguishers, and other equipment as outlined in the Vehicle Requirement Section of these Regulations.
- d. Driver must be able to physically perform actions necessary to assist persons with disabilities, including wheelchair users.
- e. Driver must wear a professional uniform and photo identification badge that easily identifies the driver and the company for whom that driver works.
- f. Driver must complete 12 hours of in-service training annually in the area of safety. Records of such must be kept on file at company's primary place of business within South Carolina.

B. Vehicle Requirements

1. Any vehicle purchased on or after the effective date of these regulations shall comply with the following vehicle requirements. The Applicant must certify on a Commission prescribed form that its vehicles meet, at a minimum, the following standards.

a. All Non-Emergency Vehicles shall be equipped with at least the following:

- (1) Approved seat belt assemblies for all passenger seating locations.
- (2) Interior and exterior lighting which must meet ADA requirements set forth in Title 49, Parts 37 and 38 C.F.R. In addition all standard motor vehicle equipment must be in working order (i.e. all lamps, windshield wipers, horn, emergency flashers/hazard lights, and all other standard motor equipment.)
- (3) Locking devices for all doors and all door latches which shall be in operable form inside and outside on all vehicles manufactured and first registered after January 1, 1980.
- (4) Foot stool or extra step for loading.
- (5) Sanitary and functional seat covers.
- (6) Spare wheel, jack and tire tools necessary to make minor repairs, except when operating service cars are immediately available.
- (7) Current maps of streets in the area where service is provided.

(8) Fire extinguisher, Type 4-B;C dry powder or carbon dioxide, inspected annually. Proof of annual inspection shall be attached to each fire extinguisher.

(9) Identification display of the name under which the Non-Emergency Vehicle is doing business or providing service, on both sides and the rear of each such vehicle in letters that contrast sharply with the van's background and are easily read from at least 20 feet. All Non-Emergency Vehicles operated under the same certificate shall display the same identification.

(10) Exterior rearview mirrors affixed to both sides of the vehicle and in working order. There may not be any chips, cracks, or anything else that limits the driver's view.

(11) A two-way radio, mobile or cellular phone equipment which shall be included in the vehicle while patients are being transported. All two-way radios must be in contact with a dispatcher or someone acting as a dispatcher, i.e. must have instant access to standard phone lines and the ability to summon immediate police, fire or ambulance assistance, if needed.

(12) A "No Smoking" sign prominently displayed in the patient compartment if oxygen tanks, whether patient tanks or vehicle equipment, are carried. If oxygen tanks are carried, they must be readily accessible and securely stored.

(13) Heating and cooling systems which meet ADA requirements set forth in Title 49, Parts 37 and 38 C.F.R.

(14) Emergency warning devices.

(15) Any other emergency and safety equipment required in order to meet ADA requirements set forth in Title 49, Parts 37 and 38 C.F.R.

b. In addition to the requirements of subsection a above, all Wheelchair Vans shall be equipped with at least the following:

(1) A loading entrance in compliance with ADA requirements and standards.

(2) Fasteners to secure the wheelchair(s) or stretcher(s) to the vehicle which must be of sufficient strength to prevent the chair or stretcher from rotating and to prevent the chair or stretcher wheels from leaving the floor in case of sudden movement and to support chairs, stretchers and patients in the event the vehicle is overturned.

(3) A lift or ramp with a load capacity as specified by ADA requirements and standards.

2. Any vehicle manufactured after the effective date of these regulations shall comply with the vehicle requirements set forth in Title 49, Parts 37 and 38 C.F.R. and FMVSS.

C. Vehicle Maintenance Requirements

1. All carriers must comply with Part 396-Inspection, Repair, and Maintenance of CSA Safety Regulations, excluding 396.9, 396.11(d) as to the last phrase "or to any motor carrier operating only one motor vehicle," and excluding 396.15.

D. Drug Testing Requirements

1. All carriers must implement a verifiable drug testing program for drivers. Pre-employment, post-accident, and random drug screens shall be mandatory.

E. Minimum Periodic Inspection Standards

1. All carriers must comply with Appendix G to Subchapter B-Minimum Periodic Inspection Standards of CSA Safety Regulations.

2. A vehicle does not pass inspection if deficient under any standard included in 1 above. Further, a vehicle does not pass an inspection if any defects or deficiencies are detected with reference to the wheelchair lift or any component relating to the loading of passenger or patient into the vehicle.

3. All carriers are subject to the regulations found in Part 396, CSA Safety Regulations. In addition, any Public Service Commission representative or any officers, drivers, agents, representatives, and employees directly concerned with the inspection or maintenance of motor vehicles may recommend that a vehicle be put "out of service" for defects or deficiencies detected with reference to Appendix G to subchapter B-Minimum Periodic Inspection Standards and defects or deficiencies detected with reference to the wheelchair lift or any component relating to the loading of a passenger or patient into the vehicle.

F. Schedule of Minimum Insurance Limits

1. Insurance policies and surety bonds for bodily injury and property damage will have limits of liability not less than the following:

Liability Combined Each Occurrence	\$1,000,000
Medical Payments/Each Person	\$1,000